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**SENATE BILL 5930**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senator Palumbo

AN ACT Relating to establishing a carbon pollution tax; adding a new section to chapter 76.04 RCW; adding a new chapter to Title 82 RCW; adding a new chapter to Title 70 RCW; creating new sections; repealing RCW 19.29A.060; prescribing penalties; providing an effective date; and providing a contingent expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature intends to mitigate the effects of climate change on Washington residents, and to take steps to reduce our own contributions to global carbon emissions, through the imposition of a carbon pollution tax.

**Part I**

**Carbon Pollution Tax**

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aircraft fuel" has the same meaning as provided in RCW 82.42.010.

(2) "Carbon calculation" means a calculation made by the department of commerce, in consultation with the department of ecology, for purposes of determining the carbon content of fossil fuels and the carbon content inherent in electricity as described in section 102(3)(a) of this act, for use in calculating the tax pursuant to section 102 of this act. Among other resources, the department of commerce, in consultation with the department of ecology, may consider carbon dioxide content measurements for fossil fuels from the United States energy information administration or the United States environmental protection agency.

(3) "Carbon content inherent in electricity" means the carbon dioxide generated by the production of electricity from fossil fuels as described in section 102(3)(a) of this act.

(4) "Carbon pollution tax" means the tax created in section 102 of this act.

(5) "Coal" means coal of any kind, including anthracite coal, bituminous coal, subbituminous coal, lignite, waste coal, syncoal, and coke of any kind.

(6) "Commercial vehicle" means any vehicle including, but not limited to, motor vehicles, vessels, locomotives, or aircraft, the principal use of which is the transportation of commodities, merchandise, produce, freight, animals, or passengers for hire.

(7) "Declared resources" means both specified and unspecified sources of electricity that a qualifying utility provides to consumers and whose declaration of source, whether specified or unspecified, can be supported by information demonstrating ownership of the generation sources providing, or purchases of, that electricity. Declared resources include ownership of, or purchases from, specified generators and purchases from the Bonneville power administration or the market.

(8) "Direct service industrial customer" has the same meaning as provided in RCW 82.16.0495.

(9) "Dyed special fuel" has the same meaning referred to in RCW 82.38.020.

(10) "Energy-intensive trade-exposed manufacturing business" means a manufacturing business that meets the numerical criteria established by the department of commerce in section 104(1)(d)(ii) of this act, or has a proper primary North American industry classification system code as provided in section 104(1)(d)(iii) of this act.

(11) "Fossil fuel" means natural gas, coal, motor vehicle fuel, special fuel, dyed special fuel, aircraft fuel, kerosene, heating oil, propane, and petroleum residuals including bunker fuel.

(12) "Highly affected communities" means areas with concentrations of people disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation, as supported by reports and data provided by the United States energy information administration, the United States environmental protection agency or other reputable sources.

(13) "Motor vehicle fuel" has the same meaning as provided in RCW 82.38.020.

(14) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form, including methane clathrate; compressed natural gas; and liquefied natural gas.

(15) "On-site" means a manufacturing plant or facility located on the premises of an energy-intensive trade-exposed manufacturing business.

(16) "Person" has the same meaning as provided in RCW 82.04.030.

(17) "Qualified sequestration" means sequestration qualified for credit pursuant to RCW 80.70.020 or in accordance with a method established by the department of commerce, in consultation with the department of ecology.

(18) "Qualifying utility" means any electric utility that is:

(a) An "electrical company" as defined in RCW 80.04.010;

(b) Operating under authority of chapter 35.92 or 87.03 RCW or Title 54 RCW; or

(c) A profit, nonprofit, cooperative, or mutual corporation operating within this state for the sale or distribution of electricity to others.

(19) "Sale" has the same meaning as provided in RCW 82.04.040.

(20) "Special fuel" has the same meaning as in RCW 82.38.020, except that it includes fuels otherwise meeting that definition that are sold or used to propel vessels or railroad cars.

(21) "Taxpayer" means a person subject to the tax imposed in this chapter.

(22) "Unspecified sources" means market purchases of electricity where the origin of the electricity cannot be reasonably ascertained, but information demonstrating such purchases of the electricity can be provided. Purchases from the Bonneville power administration are not unspecified sources, except for the portion of electricity sold to a qualifying utility that the Bonneville power administration identifies as market purchases whose source cannot be reasonably ascertained.

(23)(a) "Use," "used," "using," or "put to use" means, with respect to any fossil fuel, the combustion in this state of the fossil fuel by the taxpayer or the possession or storage in this state of the fossil fuel by the taxpayer preparatory to subsequent combustion of the fossil fuel within this state by the taxpayer.

(b) For purposes of this subsection (23), "possession" means the control of fossil fuel located within this state and includes both actual and constructive possession. "Actual possession" occurs when the person with control has physical possession. "Constructive possession" occurs when the person with control does not have physical possession. "Control" means the power to sell or use a fossil fuel or to authorize the sale or use by another.

(24) "Year" means the twelve-month period commencing January 1st and ending December 31st unless otherwise specified.

NEW SECTION. **Sec.**  CARBON POLLUTION TAX. (1)(a) A carbon pollution tax is imposed on the sale or use within this state of all fossil fuels including, but not limited to, fossil fuels used in generating electricity. The measure of the carbon pollution tax is the carbon content (i) of fossil fuels sold or used by the taxpayer within this state or (ii) inherent in electricity sold or used within this state by the taxpayer.

(b) The tax rate is equal to fifteen dollars per metric ton of carbon dioxide as of July 1, 2018, increasing two and one-half dollars per year until reaching thirty dollars per metric ton.

(2) For the purposes of this chapter:

(a) Except as otherwise provided in this subsection, the carbon pollution tax is imposed only once with respect to the same fossil fuel, at the time and place of the first taxable event within this state, and upon the first taxable person within this state. For purposes of the tax imposed in this section on the sale of regulated natural gas, the first taxable event within this state is deemed to be the sale in this state by a gas distribution business to the person who will use the gas, otherwise referred to in this section as the consumer of natural gas.

(b) The carbon pollution tax applies only to:

(i) Persons who are required to be registered with the department under RCW 82.32.030(1);

(ii) The state, its political subdivisions, and municipal corporations;

(iii) Persons who maintain a place of business in this state but who are not required to be registered with the department under RCW 82.32.030(1);

(iv) The sale or use of fossil fuels in chapter 82.38 RCW at the point of taxation as described in chapter 82.38 RCW; and

(v) The seller of regulated natural gas, when sold to the consumer.

(c) A sale of fossil fuel takes place in this state when the fossil fuel is delivered in this state to the purchaser or a person designated by the purchaser, notwithstanding any contract terms designating a location outside of this state as the place of sale.

(d) Each sale of a fossil fuel in this state, except sales of regulated natural gas subject to subsection (7) of this section, must indicate on the invoice or other document of sale the amount of carbon pollution tax paid or to be paid with respect to the fossil fuel and the rate of such tax paid or to be paid, who paid or is liable to pay the tax, and any other information as may be prescribed by the department by rule. If a purchaser of fossil fuels sold in this state fails to obtain an invoice or document of sale that complies with this subsection (2)(d), the department may collect the carbon pollution tax from the purchaser.

(3) For purposes of determining the tax due under this chapter, the carbon calculation is determined as follows:

(a) For electricity consumed within the state, the department of commerce, in consultation with the department of ecology, must establish criteria for making the carbon calculation. The criteria must be adopted with the intent that the carbon pollution tax be calculated based upon a per kilowatt hour amount across all kilowatt hours delivered to customers by that utility;

(b) For fossil fuels used to refine fossil fuels, the department of commerce, in consultation with the department of ecology, must adopt by rule criteria for making the carbon calculation; and

(c) For all other fossil fuels sold or used in Washington by any person, the department of commerce, in consultation with the department of ecology, must adopt by rule criteria for making the carbon calculation.

(4) For taxpayers who are also subject to any of the taxes imposed under chapter 82.04, 82.08, 82.12, or 82.16 RCW, the frequency of reporting and payment of the carbon pollution tax must, to the extent practicable, coincide with a taxpayer's reporting periods for the taxes imposed under chapter 82.04, 82.08, 82.12, or 82.16 RCW.

(5) A commercial vehicle engaged in interstate or international commerce and reporting under an existing state, interstate, or international fuel tracking agreement reported to the department of licensing or other state agency, is subject to the carbon pollution tax only on fossil fuels consumed within the state, regardless of where the fossil fuels were purchased. The department of licensing must share information relevant to the carbon pollution tax upon request from the department.

(6) Except as provided in subsection (7) of this section, the carbon pollution tax on the sale or use of the fossil fuel is on the seller or user of the fossil fuel.

(7) For purposes of this section, "regulated natural gas" means natural gas sold to a gas distribution business as defined in RCW 82.16.010 for resale by the natural gas distribution business to consumers within this state.

(8) Prior to July 1, 2023, a state agency may not adopt a rule or policy establishing a statewide limit, cap, or standard to control the amount of greenhouse gas emissions occurring during a period of time, unless authority for the state agency to adopt such a rule or policy is clearly expressed in legislation enacted after the effective date of this section.

(9) As of the effective date of this section, chapter 173-442 WAC (the clean air rule) and associated amendments to chapter 173-441 WAC previously adopted by the department of ecology may not be enforced by the department of ecology. Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a rule or policy establishing a statewide limit, cap, or standard to control the amount of greenhouse gas emissions occurring during a period of time.

NEW SECTION. **Sec.**  CARBON REDUCTION AND ENVIRONMENTAL RESILIENCY ACCOUNT. The carbon reduction and environmental resiliency account is created in the state treasury. All receipts from the carbon pollution tax under section 102 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. After allocating no more than three percent of the receipts to the department and other state agencies to administer the carbon pollution tax, expenditures from the account must be distributed as follows:

(1) Four-hundred million dollars to the carbon reduction solutions account created in section 601 of this act.

(2) The remainder must be deposited as follows:

(a) Fifteen percent each fiscal year into the general fund to be used for the purpose of relieving the price of the tax imposed in section 102 of this act including, but not limited to, providing funding for the following programs:

(i) The aged, blind, or disabled cash assistance program;

(ii) The temporary assistance for needy families program;

(iii) The low-income home energy assistance program; and

(iv) The low-income carbon pollution mitigation tax grant created in section 201 of this act;

(b) Twenty percent each fiscal year must be deposited into the water infrastructure account created in section 301 of this act;

(c) Twenty percent each fiscal year must be deposited into the forest resilience and fire suppression account created in section 401 of this act; and

(d) Forty-five percent each fiscal year must be deposited into the carbon reduction investment fund account created in section 501 of this act.

NEW SECTION. **Sec.**  EXEMPTIONS, PHASE-INS, AND CREDITS. (1) The carbon pollution tax does not apply to:

(a) Fossil fuels brought into this state by means of the fuel supply tank of a motor vehicle, vessel, locomotive, or aircraft; except for fossil fuels brought into the state by means of the fuel supply tank of a commercial vehicle and consumed within the state, when the commercial vehicle is engaged in interstate or international commerce and reporting under an existing state, interstate, or international fuel tracking agreement reported to the department of licensing or other state agency;

(b) Fossil fuels or electricity that the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(c) Electricity imported by way of wheeling or otherwise into Washington or all Bonneville power administration Tier 1 products as identified in the regional dialogue contracts.

(i) Fossil fuels, except for electricity, exported from this state. Export to Indian country located within the boundaries of this state is not considered export outside this state. For purposes of this subsection (1)(c)(i), "Indian country" has the same meaning as provided in RCW 37.12.160.

(ii) An exporter of fossil fuels upon which another person previously paid the carbon pollution tax is entitled to a credit or refund of the tax paid, if the exporter can establish to the department's satisfaction that the tax under this chapter was previously paid on the exported fossil fuels. The person who paid the carbon pollution tax is not entitled to an exemption under this subsection (1)(c) when some other person is entitled to a refund or credit under this subsection (1)(c)(ii). For purposes of this subsection (1)(c)(ii), "exporter" means a person who exports fossil fuels from this state;

(d)(i) Fossil fuels and electricity used on-site by an energy-intensive trade-exposed manufacturing business.

(ii) The department of commerce will establish objective numerical criteria for both energy intensity and trade exposure for the purpose of identifying energy-intensive trade-exposed manufacturing businesses. The criteria will take into consideration approaches used by other jurisdictions with existing carbon reduction or carbon pricing programs, and the impact of the carbon pollution tax on manufacturing activity, including manufacturers with a 2017 North American industry classification system code 31-33 as developed by the office of management and budget. A manufacturing business that can demonstrate to the department of commerce that it meets the criteria must be issued a certificate denoting energy-intensive trade-exposed exempt status.

(iii) Notwithstanding the criteria established in this subsection (1)(d)(ii), the department must issue a certificate denoting energy-intensive trade-exposed exempt status to a manufacturing business with a proper primary North American industry classification system code based on the following activities:

112310: Chicken egg production

112320: Broilers and other meat type chicken production

112330: Turkey production

112340: Poultry hatcheries

112390: Other poultry production

311211: Flour milling

311221: Wet corn milling

311224: Soybean and other oilseed processing

311225: Fats and oils refining and blending

311230: Breakfast cereal manufacturing

311411: Frozen fruit, juice, and vegetable manufacturing

311412: Frozen specialty food manufacturing

311421: Fruit and vegetable canning

311422: Specialty canning

311423: Dried and dehydrated food manufacturing

311511: Fluid milk manufacturing

311512: Creamery butter manufacturing

311513: Cheese manufacturing

311514: Dry, condensed, evaporated, dairy product manufacturing

311520: Ice cream and frozen dessert manufacturing

311611: Animal (except poultry) processing

311612: Meat processed from carcasses

311613: Rendering and meat byproduct processing

311615: Poultry processing

311710: Seafood product preparation and packaging

311812: Commercial bakeries

311821: Cookie, cracker manufacturing

311824: Flour mixes and dough manufacturing from purchased flour

311830: Tortilla manufacturing

311911: Roasted nuts and peanut butter manufacturing

311919: Other snack food manufacturing

311930: Flavoring syrup and concentrate manufacturing

311941: Mayonnaise, dressing, and other prepared sauce

manufacturing

311942: Spice and extract manufacturing

311991: Perishable prepared food manufacturing

311999: All other miscellaneous food manufacturing

312112: Bottled water manufacturing

322110: Pulp mills

322121: Paper (except newsprint) mills

322122: Newsprint mills

322130: Paperboard mills

324110: Petroleum refineries

325188: All other basic inorganic chemical manufacturing

325199: All other basic organic chemical manufacturing

315311: Nitrogenous fertilizer manufacturing

327211: Flat glass manufacturing

327213: Glass container manufacturing

327310: Cement manufacturing

327410: Lime manufacturing

327420: Gypsum product manufacturing

321111: Iron and steel mills

331312: Primary aluminum production

331315: Aluminum sheet, plate, and foil manufacturing

334413: Semiconductor and related device manufacturing

336411: Aircraft manufacturing

336413: Other aircraft parts and auxiliary equipment

manufacturing;

(e) The portion of fuels or electricity derived from wood, wood waste, wood by-products, wood residuals, and agricultural residues;

(f) One hundred percent biofuels or the biofuel component of blended fuels. For the purposes of this subsection, "biofuel" includes, but is not limited to, biodiesel, biomethane, ethanol, and ethanol blend fuels and renewable liquid natural gas or liquid compressed natural gas made from biogas; and

(g) Diesel fuel, biodiesel fuel, or aircraft fuel when these fuels are used solely for agricultural purposes by a farm fuel user, as those terms are defined in RCW 82.08.865.

(2)(a) The carbon pollution tax is phased-in as described in this subsection for:

(i) Carbon content inherent in electricity.

(ii) Residential uses of natural gas.

(b) The tax rate for these fuels will be twenty-five percent of the rate described in section 102 of this act on July 1, 2018, fifty percent on July 1, 2020, seventy-five percent on July 1, 2022, and one hundred percent of the rate on July 1, 2024.

(3)(a) A qualifying utility and gas distribution business, as defined under RCW 82.16.010, is allowed a credit against the tax imposed under section 102 of this act by a qualifying utility or gas distribution business in an amount not to exceed seventy-five percent of the taxes collected during the fiscal year.

(b) Subject to approval by the Washington utilities and transportation commission, the commission of a district, or a governing body, the amounts collected as credits under this section by a qualifying utility or gas distribution business against the tax imposed under section 102 of this act may be expended on the following:

(i) Conservation, as defined under RCW 19.285.030, that is in excess of the conservation target under RCW 19.285.040(1) and that is not otherwise cost-effective, as defined under RCW 19.285.030(7);

(ii) Low-income weatherization;

(iii) Low-income energy assistance or uniform discounts within specific rate classifications provided these expenditures do not exceed twenty-five percent of the amounts collected as credits under this section;

(iv) Infrastructure for reducing emissions in the transportation sector by supplying compressed and liquefied natural gas to motor vehicles, marine vessels, and trains;

(v) Infrastructure to support electrification of the transportation sector, including, but not limited to:

(A) Equipment on an electrical company's transmission and distribution system to accommodate electrical vehicle connections, enable electronic interaction between the company and charging systems, and facilitate company utilization of vehicle batteries for system needs;

(B) Incentives for car dealers to sell electric vehicles;

(C) Incentives for property owners to install charging equipment; and

(D) Incentives for the electrification of school buses defined in RCW 46.04.521 and used for pupil transportation or other school purposes;

(vi) In addition to the purposes of this subsection, funds distributed under this subsection (3)(b) may be used to minimize debt that may be incurred by the company's investment in and development of renewable resources, as defined under RCW 19.285.030, in order to lower the cost of the resource's development to customers. Such renewable resources may include utility-scale generation as well as distributed energy resources; and

(vii) Any purpose other than those enumerated in this section, as long as the expenditure would contribute to reducing greenhouse gas emissions, provided the expenditure does not exceed one hundred dollars in 2017 dollars per ton of carbon dioxide equivalent of reduced emissions of greenhouse gases.

(c) The Washington utilities and transportation commission may adopt rules to implement this section for a light and power business and gas distribution business, as defined under RCW 82.16.010.

(d) A light and power business that is an investor-owned utility may not earn a rate of return from the portion of investments paid for with amounts collected as credits under this section.

(4) A declared resource in this state that generates electricity through the combustion of natural gas is eligible to receive a credit against any carbon tax paid under section 102 of this act to the extent the taxpayer demonstrates that the declared resource replaces or reduces the generation of electricity from out-of-state sources fueled by coal, provided the declared resource commenced operation after June 30, 2008, is located in the state of Washington, and meets the greenhouse gas emissions performance standard in RCW 80.80.040(1) (a) and (b). The credit must be derived by multiplying the carbon content of the electricity produced by the coal-fueled resource (calculated pursuant to section 102(3) of this act) by the number of kilowatt-hours avoided and subtracting from this amount the carbon content of the electricity produced by the in-state natural gas-fueled resource (calculated pursuant to section 102(3) of this act) multiplied by the same number of kilowatt hours.

(5) If a person pays the carbon pollution tax, or a similar carbon pollution tax imposed by another state, on fossil fuels that are consumed in the generation of electricity sold for consumption in this state, the electricity so generated or used will not be subject to the tax imposed under this chapter provided that the department receives evidence, pursuant to rules adopted by the department, that the tax has been paid by the person using the fossil fuels to generate electricity.

(6) Credit is allowed against the carbon pollution tax for any similar carbon pollution tax legally due and paid by the taxpayer or other person to another state with respect to the same fossil fuel or electricity. The amount of the credit may not exceed the tax liability arising under this chapter with respect to that fossil fuel or electricity.

(7) The carbon pollution tax must be reduced or refunded to the extent that the person who paid the tax can demonstrate that the fossil fuels or electricity in respect to which the tax was paid did not contribute to increasing the atmospheric carbon dioxide concentration by reason of qualified sequestration or such other reason as may be provided by rule adopted by the department of commerce in consultation with the department of ecology. The tax reduction in such cases must be proportional to the fraction of emissions that can be demonstrated not to contribute to increasing the atmospheric carbon dioxide concentration. The department of commerce, in consultation with the department of ecology, must adopt by rule criteria for determining when a refund or reduction of carbon pollution tax qualifies under this subsection. The right to carbon pollution tax refund or reduction under this subsection may not be transferred, traded, or banked.

(8) A commercial vehicle engaged in interstate or international commerce and reporting under an existing state, interstate, or international fuel tracking agreement reported to the department of licensing or other state agency is eligible to receive a credit or refund against any carbon tax paid under section 102 of this act on fossil fuels purchased within the state that are transported in a fuel supply tank and consumed outside the state.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Similar carbon pollution tax" means a tax:

(i) That is imposed on the sale, use, possession, transfer, or consumption of fossil fuels or the sale, consumption, or generation of electricity produced through the combustion of fossil fuels, and that is not generally imposed on other activities or privileges; and

(ii) That is measured by the carbon content of such fossil fuels, or the carbon content inherent in such electricity, in terms of carbon dioxide emissions.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

NEW SECTION. **Sec.**  RULE MAKING AND OTHER ADMINISTRATIVE AUTHORITY. (1) The provisions of chapter 82.32 RCW apply to this chapter.

(2) The department may adopt rules as it deems necessary to administer this chapter.

NEW SECTION. **Sec.**  REPORTS BY UTILITIES. (1) A qualifying utility must file with the department of commerce an electricity resource report. The report must be filed with the department of commerce during the reporting period for the tax imposed under section 102 of this act, as determined by the department. The department of commerce must share the report with the department of revenue.

(2) The department of commerce must adopt rules regarding the content of the electricity resource report submitted under this section. The electricity resource report rules must require the submission of any information deemed necessary by the department of commerce or by the department of revenue to administer the tax imposed under this chapter.

(3) The department of commerce must adopt rules under which a qualifying utility may specify the resources used to generate electricity that is not a resource that is declared by the qualifying utility. To the maximum extent practicable, the electricity source specification requirements and procedures adopted by the department of commerce must be consistent with the electric source specification requirements that apply to electricity in other jurisdictions that have adopted a policy that results in the imposition of a tax, price, or other cost associated with the carbon content of electricity.

(4) For purposes of imposing the tax under this chapter, the department of revenue must assume the carbon content for unspecified sources as the lesser of the most recent emissions performance standard calculated pursuant to RCW 80.80.080, or the net system power calculated pursuant to RCW 19.29A.080(6)(b) for the same year.

(5) The department must specify that electricity that does not meet the definition of declared resources will have an assumed carbon content of one metric ton of carbon.

NEW SECTION. **Sec.**  RCW 19.29A.060 (Fuel mix disclosure—Electricity product categories—Disclosure format) and 2000 c 213 s 4 are each repealed.

NEW SECTION. **Sec.**  REPORT BY DEPARTMENT. On or before October 31st of each year from 2020 through 2025 and biennially thereafter, the department must submit a report to the governor and the legislature containing the following with respect to the annual or biennial period ending December 31st immediately preceding the reporting date, annualized if in a biennial report:

(1) The total carbon pollution tax collected during the reporting period;

(2) The revenue foregone by the state resulting from the phase-ins described in section 102 of this act;

(3) The revenue foregone by the state resulting from exemptions claimed against the tax imposed under section 102 of this act by an energy-intensive trade-exposed manufacturing business;

(4) The revenue foregone by the state resulting from credits claimed against the tax imposed under section 102 of this act by a qualifying utility and gas distribution business, as defined under RCW 82.16.010;

(5) Estimated costs incurred by the department, the department of commerce, the department of ecology, the Washington utilities and transportation commission, and the Washington state university extension energy program directly associated with administration of the carbon pollution tax shown both in dollar amounts and as a percentage of the state general fund. The department of commerce, the department of ecology, the Washington utilities and transportation commission, and the Washington state university extension energy program must report its estimated administrative costs under this subsection to the department each year at least two weeks before the deadline for the report required under this section; and

(6) The estimated overall net revenue gain or loss calculated by comparison of subsections (1) and (5) of this section in dollar amounts and as a percentage of the state general fund.

NEW SECTION. **Sec.**  JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE REVIEW. (1) By December 31, 2025, the joint legislative audit and review committee, in consultation with the department, the department of commerce, and the department of ecology, must conduct a review of the tax imposed under section 102 of this act.

(a) The committee review must include, but is not limited to, an analysis of any net economic impacts on job creation or economic activity that may have been directly or indirectly attributable to this tax, the impact of the tax, if any, on total greenhouse gas emissions, considering both in-state emissions and emissions associated with economic activity occurring outside the state where avoidance of this tax is a possible factor, the impact of the tax on consumers of energy in Washington, including the proportion of the impact on low-income households. The report must evaluate the effectiveness of the use of revenues by the state in mitigating cost impacts to consumers, including mitigating any disproportionate impact on low-income households, the effectiveness in the use of revenues to reduce and mitigate the impact of greenhouse gas emissions and the effectiveness of investments in advancing development and achieving commercialization of new clean technologies and meeting the purposes of expenditures outlined in sections 103 and 401 through 601 of this act.

(b) The committee must also provide an analysis of the effectiveness of investment of funds by qualifying utilities and gas distribution businesses as provided in section 104(3) of this act, including the amount of conservation achieved, the amount and results of investments made in electrification of transportation and infrastructure improvements and incentives to promote transportation electrification or the use of other alternative fuels for transportation, to the degree practicable a calculation of the reduction in greenhouse gas emissions resulting from utility investments of retained funds, and the amount of funds directed to mitigate financial impacts on ratepayers, including low-income households.

(2) The joint legislative audit and review committee must report to the governor and the appropriate committees of the legislature and make recommendations as to whether there should be adjustments to the tax rate to provide appropriate incentives for reducing global greenhouse gas emissions and meeting the other objectives stated in this act without unnecessary negative economic outcomes on Washington workers and consumers.

NEW SECTION. **Sec.**  TECHNICAL ASSISTANCE. Upon request of the department, the department of commerce, the department of ecology, the Washington utilities and transportation commission, and the Washington state university extension energy program must provide technical assistance to the department as may be necessary for the department to effectively administer this chapter.

NEW SECTION. **Sec.**  This chapter may be known and cited as the carbon reduction and environmental resiliency act.

**Part II**

**Low-Income Carbon Pollution Mitigation Tax Grant**

NEW SECTION. **Sec.**  LOW-INCOME CARBON POLLUTION MITIGATION TAX GRANT. (1) The definitions in this subsection apply throughout this section unless the context clearly indicates otherwise.

(a) "Adjusted gross income" has the same meaning as provided in Title 26 U.S.C. Sec. 62 of the federal internal revenue code, as amended, as of the effective date of this section.

(b) "Department" means the department of social and health services.

(c) "Eligible person" means:

(i) An individual, or an individual and that individual's spouse if they file a joint return, who is eligible for any Washington means-tested benefits including, but not limited to, temporary assistance for needy families under chapter 74.12 RCW and the supplemental nutrition assistance program under chapter 74.04 RCW, and who have resided in the state of Washington for more than one hundred eighty days of the year in which the grant is sought; or

(ii) An individual, or an individual and that individual's spouse if they file a joint return, or any nonresident aliens who have an individual taxpayer identification number from the United States internal revenue service who:

(A) Has an adjusted gross income as provided for in subsection (3) of this section; and

(B) Properly files a federal income tax return as a Washington resident, and has been a resident of the state of Washington for more than one hundred eighty days of the year in which the grant is sought.

(2) The department must establish and administer a low-income carbon pollution mitigation tax grant, as provided in this section, for Washington state residents to assist in the equitable transition to lower carbon emission energy sources.

(3) A qualified person is allowed a low-income carbon pollution mitigation tax grant based on the adjusted gross income reported on the federal personal income tax return for the tax year in which the grant is sought, provided the adjusted gross income of a qualified person does not exceed two hundred percent of the federal poverty level.

(4) The cumulative grant amount may not exceed the available funds as provided in section 103(2)(a)(iv) of this act.

(5) The grant under this section must be administered according to this subsection (5):

(a) An eligible person must apply to the department for the grant as calculated under this section;

(b) Applications for the low-income carbon pollution mitigation tax grant must be made in the year following the year for which the federal return was filed, but in no case may any remittance be provided for any period before July 1, 2018. The department may use the best available data to process the grant. The department must begin accepting applications January 1, 2018;

(c) The department must review the application and determine eligibility for the low-income carbon pollution mitigation tax grant based on information provided by the applicant and through audit and other administrative records including, when it deems it necessary, verification through the department of revenue and the United States internal revenue service data;

(d) The department must remit the grant amount to the eligible person who submitted the application. Grants may be made through electronic funds transfer or other means;

(e) The department must, in conjunction with other agencies and community-based nonprofit organizations, design and implement a public information campaign that is language and culturally appropriate to inform potentially eligible persons of the existence and requirements of this grant and the process to apply for this grant;

(f) Funds allocated to this rebate but unspent due to less than full enrollment of eligible persons, must be carried forward into the subsequent year; and

(g) The department may adopt any rules necessary to implement this section.

(6) The low-income carbon pollution mitigation tax grant must be excluded from consideration as income for the purpose of determining eligibility and benefit levels of food stamp or benefit program recipients to the maximum exclusion authorized by federal law.

**Part III**

**Water Projects**

NEW SECTION. **Sec.**  CREATION OF THE WATER INFRASTRUCTURE ACCOUNT. The water infrastructure account is created in the state treasury. All receipts from the carbon reduction and environmental resiliency account specified in section 103(2)(b) of this act must be deposited into the account. Moneys in the account may be spent only after appropriation.

NEW SECTION. **Sec.**  PRIORITIES FOR WATER INFRASTRUCTURE PROJECTS. Expenditures from the water infrastructure account may be used only for projects and activities that significantly reduce risks to Washington's public health and safety, economy, and environmental vitality and are consistent with the following priorities:

(1) Reducing storm water pollution from existing infrastructure and development, priority must be given to projects and activities for highly affected communities;

(2) Reducing the risk of flooding, protecting against damage caused by floods, and protecting or restoring naturally functioning areas where floods occur;

(3) Improving the availability and reliability of water supplies for instream and out-of-stream uses; and

(4) Fish barrier correction projects at state highways required by the injunction entered in *United States v. Washington* (Civ. No. CV9213RSM). Where the department of transportation determines that the amounts appropriated exceed the current biennial appropriation necessary to meet the overall timeline for compliance with the injunction, the department may provide funding for fish barrier correction projects on state or local roadways, with the highest priority for funding to be accorded to projects with the greatest restoration of fish habitat access. In making awards for projects not subject to the injunction the department must obtain the recommendations of the fish passage barrier removal board created in RCW 77.95.160.

**Part IV**

**Forest Resilience and Fire Suppression**

NEW SECTION. **Sec.**  A new section is added to chapter 76.04 RCW to read as follows:

FOREST RESILIENCE AND FIRE SUPPRESSION ACCOUNT.

(1) The forest resilience and fire suppression account is created in the state treasury. All receipts from the carbon reduction and environmental resiliency account specified in section 103(2)(c) of this act must be deposited into the account. Fifty percent of the expenditures from the account may be used only for forest health activities and the remaining fifty percent may be used only for fire suppression activities set out in this chapter.

(2) The department must develop procedures and criteria for allocation of money in the forest resilience and fire suppression account for:

(a) Grants to projects and activities that improve forest health through thinning or prescribed fire, with priority given to projects proposed pursuant to a forest collaborative planning process establishing ecological and public safety goals across any combination of local, state, federal, and private ownerships; and

(b) Grants to support the army national guard and other entities for their role in supporting fire suppression.

(3)(a) If Second Substitute Senate Bill No. 5546 is enacted by June 30, 2017, the department must prioritize expenditures for forest health activities based on the forest health treatment and assessment framework developed in Second Substitute Senate Bill No. 5546.

(b) Grants to projects and activities for highly affected communities and community preparedness organizations that reduce the risk of wildfires and improve communities' ability to adapt to wildfires must be given priority.

**Part V**

**Carbon Reduction Fund**

NEW SECTION. **Sec.**  CARBON REDUCTION INVESTMENT FUND ACCOUNT. The carbon reduction investment fund account is created in the state treasury. All receipts from the carbon reduction and environmental resiliency account specified in section 103(2)(d) of this act, and other moneys directed by the legislature, must be deposited in the account. Moneys in the account may only be used for the purposes described in this section, and may only be spent after appropriation.

(1) The department of commerce must manage the fund and in the role of manager must solicit proposals and award funding for projects that reduce greenhouse gas emissions in Washington state, or projects that reduce emissions directly connected to energy use and other activity in Washington state. The manager of the fund must award funding with the primary goal to maximize the net cumulative reduction of greenhouse gas emissions within the amounts as appropriated.

(2) The department of commerce must consult with the department of ecology and the Washington State University extension energy program in the design and operation of the fund. The fund must adhere to the principles of technology neutrality, cost-effectiveness, and competitive markets. Priority will be given to projects that return direct benefits to highly affected communities, provided the projects achieve equivalent net emission reductions and are cost competitive compared to other proposals. The fund must consider projects in the following program areas, including but not limited to:

(a) Industrial energy efficiency. Manufacturers as defined in RCW 82.04.110 may propose projects that increase the energy efficiency or reduce the greenhouse gas emissions of its facility including, but not limited to, proposals to implement combined heat and power, district energy, on-site renewables, or to upgrade existing equipment such as boilers to more efficient models and to switch to less carbon intensive fuel sources. Projects that reduce process emissions may also be considered;

(b) Clean transportation. Managers of transportation fleets, transit agencies, and others may propose projects that reduce transportation-related emissions including, but not limited to, proposals that exceed workplace targets for commute trip reduction under the authority of chapter 70.94 RCW; accelerate the electrification of, or use of hydrogen fuel cell technology to fuel, public transit vehicles, school buses used for per pupil transportation, and light duty vehicle fleets; create integrated transportation networks using pneumatic tube driven transportation systems; create electric vehicle charging or hydrogen refueling infrastructure; and proposals that implement biomethane or other gaseous or liquid biofuels for transportation that result in reduced greenhouse gas emissions;

(c) Energy efficiency for existing buildings. Building owners and facility managers may propose projects that improve energy efficiency and utilize demand side management of electricity, including the use of natural gas and other fossil fuel consumption proposals when they deliver emission reductions that meet the requirements set forth in subsection (3) of this section; and

(d) Other technologies. The department of commerce, in consultation with the department of ecology and the Washington State University extension energy program, must solicit proposals that reduce the carbon intensity of energy and are not explicitly covered by the programs in (a) through (c) of this subsection. The department of commerce may award funds for projects on a technology neutral basis that include, but are not limited to, energy efficiency in the agricultural sector, development of new fuel sources, and qualified sequestration.

(3) The department of commerce must by rule develop the process and mechanisms to solicit, review, approve, and award proposals. The department of commerce must evaluate the suitability of multiple approaches before selecting one or more approaches, including but not limited to: Awarding funding based on the total net carbon reductions achieved by the project; awarding funding based on the portion of carbon reductions that are not cost-effective under current market conditions; or by setting a fixed award amount for greenhouse gas emission reductions or qualified sequestration based on a reverse auction or some other market determined amount. The department of commerce may also consider making an award in the form of upfront payments, estimated annual payments, or payments only after the carbon reductions have been measured and verified. Under no circumstance will the department of commerce award an amount in excess of one hundred dollars in 2017 per ton of carbon dioxide equivalent or reduced emissions of greenhouse gases for any proposal. Project proposals must be judged by criteria set in rule by the department of commerce. The criteria must be predominantly weighted based upon the following:

(a) Metric tons of carbon dioxide equivalent emissions avoided over the lifetime of the project that are:

(i) Real, specific, quantifiable, and identifiable emission reductions; and

(ii) Additional to existing law, statute, or legal requirement; and

(b) Cost-competitive compared to other proposals submitted within the same program area.

(4)(a) The department of commerce must consider the recommendation of the Washington State University extension energy program in (b) of this subsection, in determining the award amount offered for a given project and the appropriate process or method for awarding proposals in that program area.

(b) By March 1, 2018, the Washington State University extension energy program must complete a clean energy investment study to recommend appropriate award amounts per ton of carbon dioxide equivalent of greenhouse gas emission reductions for a variety of clean energy, efficiency, and other project types. This study must take into account greenhouse gas emission reduction project prices in regulatory and voluntary carbon reduction programs operated in other jurisdictions and be set at the minimum level deemed necessary to catalyze investment of these project types. By March 1, 2020, and by March 1st of each even-numbered year thereafter, the Washington State University extension energy program and the department of commerce must update the recommended award amounts for the following two-year period.

(5) Recipients of funding for projects must submit to the department of commerce a progress report at a date or dates to be determined in the funding contract. The progress report must be delivered in a format specified by the department of commerce and must include the following in addition to any such information as the department of commerce requires in the terms of the contract:

(a) Summary of the investments made and technology installed and deployed;

(b) Verification of the avoided greenhouse gas emissions since the date of the signed contract or the last report from a qualified third party, as identified by the department of commerce, who must report on:

(i) Whether the project was built or implemented according to the proposed design and any protocols or methodologies that were referenced in the proposal, as approved in the funding contract;

(ii) The verification plan that details the methods used to evaluate the project;

(iii) Their review of the proponent's accounting of emission reductions;

(iv) The site visits conducted; and

(v) Any additional data as the department of commerce identifies in rule making that it requires to sufficiently evaluate the project and to provide the highest integrity and verification of emission reductions.

(6) The department of commerce must design project funding contracts, monitor project implementation, and track contract performance, to actively assist the project proponent in securing the expected project outcomes.

NEW SECTION. **Sec.**  The department of commerce may adopt rules as it deems necessary to administer this chapter.

**Part VI**

**Carbon Reductions Solutions Account**

NEW SECTION. **Sec.**  CARBON REDUCTIONS SOLUTIONS ACCOUNT. (1) The carbon reductions solutions account is created in the state treasury. All receipts from the carbon reduction and environmental resiliency account specified in section 103(1) of this act must be deposited in the account. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may only be expended for the purpose of providing funding to offset some or all of the state fiscal impacts of the following:

(a) School district programs under chapter 28A.160 RCW for per pupil transportation;

(b) Credits against state taxes owing by retail electric utilities for the renewable energy incentive payments made to customers installing solar or other renewable energy facilities at their premises, pursuant to RCW 82.16.130;

(c) The alternative fuel vehicle tax exemption pursuant to RCW 82.08.809 and 82.12.809;

(d) The alternative fuel commercial vehicle tax credit pursuant to RCW 82.16.0496;

(e) Tax exemptions provided for natural gas when used as a transportation fuel pursuant to RCW 82.08.02565 and 82.12.02565;

(f) Tax credits provided for biodiesel feedstock pursuant to RCW 82.08.0205 and 82.12.0205; and

(g) Funding for projects that provide a benefit to the public through development, demonstration, and deployment of clean energy technologies that save energy and reduce energy costs, reduce harmful air emissions, or otherwise increase energy independence for the state. In funding such projects, the department of commerce must be guided by the project selection procedures and standards required by the omnibus capital appropriations act in section 1028, chapter 3, Laws of 2015 3rd sp. sess.

**Part VII**

**Miscellaneous Provisions**

NEW SECTION. **Sec.**  RCW 82.32.805 and 82.32.808 do not apply to any provisions of this act.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  Part I of this act, with the exception of section 107, constitutes a new chapter in Title 82 RCW.

NEW SECTION. **Sec.**  Parts II, IV, and V of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec.**  (1) Prior to July 1, 2023, if the people of Washington enact a charge, tax, regulatory limit, or standard upon the emission of greenhouse gases that is imposed broadly upon those persons subject to the state tax imposed under section 102 of this act, this act expires on the date that such law is enacted.

(2) The department of revenue must provide written notice of the expiration date of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

NEW SECTION. **Sec.**  This act takes effect January 1, 2018.

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